

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ARISTA MUSIC, et al.,

Plaintiffs,

v.

TIME WARNER, INC., et al.,

Defendants.

No. 3:09-0827

JUDGE CAMPBELL

**DECLARATION OF JONATHAN NORMAN IN SUPPORT OF
DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION TO
TRANSFER TO CENTRAL DISTRICT OF CALIFORNIA (28 U.S.C. § 1404(a))**

I, Jonathan Norman, declare:

1. I am employed by WAD Productions, Inc. ("WAD") and have since July 9, 2003 had primary responsibility for the music performed on *The Ellen DeGeneres Show* (the "Show"). I have personal knowledge of the facts below and if called as a witness could and would testify as to those facts.

2. WAD produces the Show. All of the offices for the Show have been based in Burbank, California, first at the NBC Studios and, as of summer 2008, at the Warner Bros. lot. All of the Show's employees worked out of those offices in Burbank, California. Except for the small number of episodes that are taped "on location," the Show has always been taped in Burbank, California -- until last year at the NBC Studios, and currently at a studio on the Warner Bros. lot.

3. The business records relating to the Show, including records of what music was played on the Show, are located in WAD's Burbank, California offices or the offices of the Show's licensing agent, Evan Greenspan, in Studio City, California.

4. I work closely with an assistant on music related issues for the Show. Currently my assistant is Wendy Zeder, who works in the WAD office in Burbank, California and lives in the Los Angeles area. My former assistants include Robyn Hawkes; Terri Tillman; Brianna Cartwright and Laura Bertalan. None of my former assistants currently work for WAD or any other Warner Bros. related entity. Ms. Hawkes and Ms. Cartwright still work in the Los Angeles area. I believe that Ms. Bertalan moved to Michigan and do not know where Ms. Tillman is.

5. I also work with the Show's DJs. The current DJ is Tony Okungbowa, who works out of the WAD offices in Burbank, California except during the taping of the Show, when he works in the studio in Burbank, California. Johnny Abraham and Ted Stryker worked previously as DJs on the Show. Neither of them works for WAD or any other Warner Bros. related entity, but both continue to live and work in the Los Angeles area.

6. Recorded music that is used in the Show is either played by the DJ during the taping of the Show or added in post-production. The post-production work takes place in WAD's offices in Burbank, California. The recorded music that was played on the Show was played from computers and was all digital. That included older sound recordings that had been digitally remastered.

7. My assistants, the DJs and I have all had extensive contacts with the executives and employees of the Plaintiffs (the "Labels"). Our contacts with the Labels are often on a daily basis, concerning a wide range of topics related to the Show's use of the Labels' music. The Labels' employees arrange for the appearances of the Labels' artists on the Show, often to perform their music live. More than 600 musical artists have performed on the Show since 2003. The artists' appearances are often accompanied by the use of the artists' recordings, either to accompany their walking on the stage or as background for live performances. The artists' appearances are promoted by the Show and the Labels, frequently with the use of the artists' recorded music. Many of the Labels' executives and employees attend tapings of the Show in Burbank, California.

8. Over the years, the Labels' employees routinely urge that the Show use particular recordings on the Show, often for use in that segment of the Show when Ms. DeGeneres dances across the stage. The Labels' employees send the Show's DJs and myself copies of the artists' CDs and provide us with access to the Labels' secure websites that have advanced copies of the artists' music. The CDs that we have received have included almost all of the new releases in musical genres that were played on the Show (*e.g.*, we would not receive recordings of opera). The CDs also included reissues and compilations of older music.

9. The Show does not often play country music or other music from contemporary Nashville artists. Of the recordings listed by the Labels in the exhibits to their complaints, I would estimate that fewer than 5% of the recordings are Nashville artists' recordings, and of that group, I have spoken only infrequently to any Label employee in Nashville in connection with booking any such artist.

10. The Labels' employees frequently report to my assistants or myself that the use of their artists and their music on the Show contributed significantly to increased sales of the Labels' recordings. In recognition of the Show's contribution, the Labels have presented the Show with several gold records.

11. The Labels' employees and executives with whom we have contact are overwhelmingly located in the Los Angeles area, with the others generally located in New York, and relatively few located in Tennessee. The Labels are all part of four music groups: EMI, Sony, Warner Music and Universal Music. Warner and Universal are

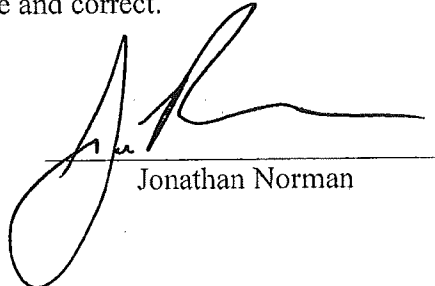
headquartered in the Los Angeles area and the executives and employees that we deal with generally are in Los Angeles. EMI and Sony are based in New York, but have sizeable offices in the Los Angeles area. Our contacts with EMI and Sony were generally with their employees and executives in California or New York.

12. A number of the Labels' employees who had contact with the Show have since left the Labels, but are still living and working in the Los Angeles area, including Gihan Salem, Jim Merlis, and Ambrosia Healy.

13. The Show is distributed by Warner Bros. Domestic Television Distribution, whose offices are located in Burbank, California.

Executed this 20th day of November, 2009 at Burbank, California.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.



Jonathan Norman

CERTIFICATE OF SERVICE

I certify that I served a copy of this document via ECF on November 25, 2009, on:

Timothy L. Warnock, Esq.
Tim Harvey, Esq.
Riley Warnock & Jacobson, PLC
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Counsel for Plaintiffs

/s/ Stephen J. Zralek